

ORDINANCE NO. O-2010-002

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PISMO BEACH ADDING CHAPTER 5.22 TO THE MUNICIPAL CODE REGULATING VACATION RENTALS

WHEREAS, vacation home rentals provide a community benefit by expanding the number and type of lodging facilities available and assist owners of vacation home rentals by providing revenue which may be used for maintenance upgrades and other costs; and

WHEREAS, City staff has responded to numerous complaints involving excessive noise, disorderly conduct, vandalism, overcrowding, traffic, congestion, illegal vehicle parking and accumulation of refuse at vacation home rentals which require response from police, and other city personnel; and

WHEREAS, the transitory nature of occupants of vacation homes makes continued enforcement against the occupants difficult; and

WHEREAS, the provisions of this ordinance are necessary to prevent the continued burden on city services and impacts posed by vacation home rentals.

Now therefore, the City Council of the City of Pismo Beach, California does ordain as follows:

SECTION 1.

A new Chapter 5.22 shall be added to the Pismo Beach Municipal Code to read as follows:

5.22 Vacation Rental Regulation

5. 22.010 Definitions

A. As used in this chapter, a "vacation rental" means any structure, as defined in the building code adopted in Section 15.04.010 of this code, which exists, is constructed, or which is maintained or used upon any premises for the purpose of transient lodging which consists of four or fewer separate transient rental units.

B. As used in this chapter, "transient" shall have the same meaning as set forth in Section 3.20.020 of this code.

5.22.020 Application Process

A. Persons wishing to use a structure as a vacation rental shall do all of the following:

1. Complete a vacation rental certificate request form, which form shall be provided by the director of community development or his designee.
2. Submit the following information in support of a vacation rental certificate:
 - a. The name, address and telephone number of the property owner and a contact person/entity that can be reached via telephone twenty-four hours a day, seven days a week, to respond to complaints regarding the use of the vacation rental. The contact person/entity shall reside or maintain a physical business address within 25 miles of the vacation rental. A post office box or private mail drop address shall not be deemed to comply with the requirement of maintaining a residence or physical business address. An owner of a vacation rental who resides within a twenty-five mile radius of the vacation rental unit may designate himself/herself as the contact person. Any change in the contact person's address or telephone number shall be promptly furnished to the City.
 - b. A site and floor plan including unit square footage, bedroom and bathroom locations and dimensions, and parking locations and dimensions, and photographs showing the interior of each bedroom and showing each parking location.
 - c. A copy of the proposed notices required by Section 5.22.040(E) to be posted inside the vacation rental unit.
 - d. Proof of written notification to all property owners and residents within 100 feet of any point on the property containing the vacation rental, describing the proposed vacation rental use, including the number of separate vacation rental units, the number of on-site parking spaces and the telephone number of the contact person/entity set forth in subsection a.
 - e. Evidence of a valid transient occupancy registration certificate issued by the tax administrator for the vacation rental pursuant to Section 3.20.060.
 - f. Acknowledgment that the owner and contact person/entity, if any, have read all this chapter, and acknowledgement of their responsibility to assist in enforcement for payment of transient occupancy taxes.
 - g. Such other information as the director of community development or designee deems reasonably necessary to administer this chapter.
 - h. An inspection by city staff may be required prior to issuance of certificate.

B. Vacation rental certificates shall be personal property of the vacation rental unit operator and shall not run with the land. Upon sale of a property operated as a vacation rental, the new owner shall comply with the provisions of this Chapter prior to operation of the vacation rental unit.

5.22.030 Vacation Rental Standards

A. Except as otherwise permitted by the Community Development Director upon presentation of extenuating circumstances, each vacation rental shall have a minimum of two parking spaces available on-site at all times.

B. Each vacation rental shall provide for garbage removal as required by Chapter 8.12 of this code.

5.22.040 On-going Requirements for Vacation Rental Operation

A. The operator of the vacation rental shall, at all times while the property is being used as a vacation rental, maintain a contact person/entity that can be reached via telephone twenty-four hours a day, seven days a week, to respond to complaints regarding the use of the vacation rental. The contact person shall respond, either in person, or by return telephone call, within 3 hours of a complaint, and the contact person shall provide the complaining party a proposed resolution to the complaint.

B. The operator or contact person/entity shall use best efforts to ensure that the occupants and/or guests of the vacation rental do not create unlawful noise or disturbances, engage in disorderly conduct, or violate provisions of this code or any state law pertaining to noise or disorderly conduct, by notifying the occupants of the rules regarding vacation rentals and responding in person when notified that occupants are violating laws regarding their occupancy. Notwithstanding the retention of a separate contact person/entity, the owner of the vacation rental is responsible for compliance with the provisions of this chapter and the failure of an agent, representative, or contact person to comply with this chapter shall be deemed noncompliance by the owner.

C. The operator of the vacation rental shall annually, not later than December 31 of each year, notify in writing all property owners and residents within 100 feet of any point on the property containing the vacation rental, that the property will be used as a vacation rental.

D. The operator of the vacation rental shall annually, not later than December 31 of each year, provide in writing to all property owners and residents within 100 feet of any point on the property containing the vacation rental the name, address and telephone number of the contact person required in subsection A.

E. A written notice shall be conspicuously posted inside each vacation rental unit setting forth the name, address and telephone number of the contact person required in

subsection A. The notice shall also set forth the maximum number of occupants permitted to stay overnight in the unit, the maximum number of vehicles allowed to be parked on-site, and the day(s) established for garbage collection. The notice shall also provide the non-emergency telephone number of the Pismo Beach Police Department.

F. Any advertising of the vacation rental shall include the vacation rental permit number provided by the City.

5.22.050 Violations and Enforcement

A. It shall be unlawful and a misdemeanor for any person to construct for vacation rental use, to convert to vacation rental use, to offer to another for vacation rental use, or to occupy as a vacation rental use any portion of any structure or facility without full compliance with this chapter.

B. In addition to, or in lieu of criminal sanctions set forth in subsection (A), administrative penalties, including a notice of violation, shall be imposed, and permits shall be revoked, in the manner provided in this sub-section (B).

1. The City Building official or designee shall conduct an investigation whenever there is reason to believe that an owner has failed to comply with the provisions of this chapter. Should the investigation reveal substantial evidence to support a finding that a violation occurred, the City Building Official or designee shall issue written notice of the violation and intention to impose a penalty and/or revoke the permit. The written notice shall be served on the owner and operator or agent and shall specify the facts which, in the opinion of the City Building Official, constitute substantial evidence to establish grounds for imposition of the penalties and/or revocation, and specify that the penalties will be imposed and/or that the permit will be revoked within 15 days from the date the notice is given unless the owner and/or operator files with the city clerk the fine amount and a request for a hearing. The penalties for violations specified in subsection (B) of this section shall be as follows:

a. For the first violation within any 12-month period, the penalty shall be a fine not to exceed \$100.00, and/or suspension of the permit for a period not to exceed three months.

b. For a second violation within any 12-month period, the penalty shall be a fine not to exceed \$250.00, and/or suspension of the permit for a period not to exceed six months.

c. For a third violation within any 12-month period, the penalty shall be a fine not to exceed \$500.00, and/or suspension of the permit for a period not to exceed one year.

2. If the owner requests a hearing within the time specified in subsection (1) of this section, the city clerk shall serve written notice on the owner and operator, by mail, of the date, time and place for the hearing which shall be scheduled not less than 15 days, nor more than 45 days of receipt of request for a hearing. The Community Development

Director may preside over the hearing or may designate a hearing officer to take evidence and submit proposed findings and recommendations to the Community Development Director. The Community Development Director shall impose the penalties or revoke the permit only upon a finding that a violation has been proven by a preponderance of the evidence, and that the penalty or revocation is consistent with the provisions of this chapter. The Community Development Director shall render a decision within 30 days of the hearing and the decision shall be final.

C. The Community Development Director or designee shall have the authority to impose additional conditions on any permit in the event of any violation of the conditions of the permit or the provisions of this chapter.

SECTION 2.

This ordinance shall become effective on the thirtieth day following passage and adoption hereof.

SECTION 3.

The City Clerk shall certify to the passage and adoption of this Ordinance, shall enter the same in the book of original ordinances of the City and shall make a minute of the passage and adoption thereof in the records of the meeting at which the same is passed and adopted. Before the expiration of 15 days after the passage of this Ordinance, the City Clerk shall cause the same to be posted in three public places within the City of Pismo Beach, to wit: 1) City Hall, 760 Mattie Road, Pismo Beach, 2) U.S. Post Office, Shell Beach Road, Pismo Beach, 3) U.S. Post Office, Crest Drive, Pismo Beach.

INTRODUCED at a regular meeting of the City Council held this 2nd day of February 2010, on motion of Councilmember Vardas, seconded by Councilmember Waage, and on the following roll call vote, to wit:

AYES:	5	Councilmembers: Vardas, Waage, Ehring, Higginbotham
NOES:	0	
ABSENT:	0	
ABSTAIN:	0	

Approved:


Mary Ann Reiss
Mayor

Attest:


Emily Colborn, CMC
City Clerk

SECOND READING at a regular meeting of the City Council held this 16th day of February, 2010, on motion of Councilmember Vardas, seconded by Councilmember Waage, and on the following roll call vote, to wit:

AYES: 5 Councilmembers: Vardas, Waage, Ehring, Higginbotham, Reiss

NOES: 0

ABSENT: 0


ABSTAIN: 0

Approved:



Mary Ann Reiss
Mayor

Attest:



Emily Colborn, CMC
City Clerk

APPROVED AS TO FORM:



David M. Fleishman, City Attorney



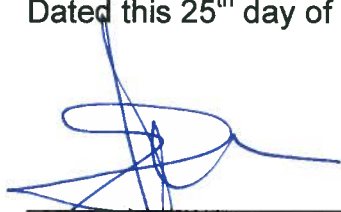
From the Office of the City Clerk

760 Mattie Road
Pismo Beach, CA 93449
(805) 773-4657
(805) 773-7006 Fax

STATE OF CALIFORNIA }
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COUNTY OF SAN LUIS OBISPO} SS

I, Emily Colborn, the City Clerk of the City of Pismo Beach, California, do hereby certify that the attached is a true and correct copy of **Ordinance No. O-2010-002** and was duly posted in three public places within the City within 15 days of adoption thereof, pursuant to the requirements of Government Code Section 40806.

Dated this 25th day of February 2010.



Emily Colborn, CMC
City Clerk